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8 Counsel for Petitioner James Anthony Davis.

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 JAMES ANTHONY DAVIS,
12 Petitioner,
13 v.
14 D.W. NEVEN, et al.,
15 Respondents.

Case No. 2:15-cv-01574-RFB-NJK

**MOTION FOR EXTENSION OF TIME
TO FILE AMENDED PETITION FOR
WRIT OF HABEAS CORPUS**

(Third Request)

17 Petitioner James Anthony Davis moves this Court for an extension of time of
18 120 days from January 26, 2017 to, and including, May 26, 2017, to file an Amended
19 Petition for Writ of Habeas Corpus. This motion is based on the attached
20 declaration of counsel and the record in this case.

21 Dated this 26th day of January, 2017.

22 Respectfully submitted,

23 RENE L. VALLADARES
24 Federal Public Defender

25 /s/ Amelia L. Bizzaro
26 AMELIA L. BIZZARO
Assistant Federal Public Defender

POINTS AND AUTHORITIES

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2 1. On December 12, 2003, the state charged Davis with murder. Upon
3 entry of his guilty plea, the court sentenced him to 20 years to life. The Nevada
4 Department of Corrections houses Davis at Lovelock Correctional Center.

5 2. On March 31, 2016, this Court appointed the Federal Public Defender
6 as counsel for Davis. ECF No. 8. Atty. Melanie Gavisk filed a Notice of Representation
7 on April 15, 2016. ECF No. 9. Atty. Gavisk previously sought a 120-day extension
8 until September 28, 2016. ECF No. 10.

9 3. Undersigned counsel filed her Notice of Appearance on August 10, 2016,
10 having been reassigned the case, ECF No. 14, and a second request for 120-day
11 extension until January 26, 2017, ECF No. 15. Counsel has met with Davis in person
12 twice, the most recent visit taking place last Friday in Lovelock, and has spoken to
13 him on the phone several times. This is Davis's third request for a 120-day extension
14 of time.

15 4. This is a complex habeas corpus case with a voluminous record. As this
16 Court previously noted, the petition appears untimely. *See* ECF No. 3. *See also* ECF
17 Nos. 6, 7 (Davis's *pro se* response to this Court's Order to Show Cause and the
18 warden's reply). Davis, by counsel, has been actively investigating the case, including
19 an investigation related to tolling as well as an investigation of the merits of the
20 claims. To that end, we have requested and received records from several different
21 entities, including medical facilities and law enforcement agencies on the east coast,
22 as well as the Nevada Department of Corrections. The records NDOC sent on
23 December 6, 2016 were so voluminous they arrived by mail on compact disc. Just this
24 week, we ordered additional records from the Social Security Administration and are
25 planning to order school records from four schools in New York. In addition, we
26 ordered and received several transcripts in Davis's case on December 7, 2016.

1 5. Although the FPD has been diligently working on this case, additional
2 time is necessary to order and receive records required for Davis's case. Once
3 obtained, it will take a significant period of time to completely review the file and
4 draft an amended petition. The additional period of time is necessary in order to
5 effectively and thoroughly represent Davis. This motion is not filed for the purposes
6 of delay but in the interests of justice, as well as in Davis's interests.

7 6. On January 26, 2017, undersigned counsel contacted Senior Deputy
8 Attorney General Shane S. Chesney about this request. However, I was unable to
9 connect with Atty. Chesney before filing this motion.

10 7. For the reasons above, as well as the record in this case, Davis asks this
11 Court to grant his request for an extension of time to file the amended petition and
12 order the amended petition to be filed on or before May 26, 2017.

13 Dated this 26th day of January, 2017.

14 Respectfully submitted,

15 RENE L. VALLADARES
16 Federal Public Defender

17 /s/ Amelia L. Bizzaro
18 AMELIA L. BIZZARO
19 Assistant Federal Public Defender

20 IT IS SO ORDERED:

21 

22 RICHARD F. BOULWARE, II
23 United States District Judge

24 DATED this 30th day of January, 2017.

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2017, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include Deputy Attorney General Shane Chesney.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing documents by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

James Anthony Davis
No. 81111
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

/s/ Jessica Pillsbury
An Employee of the
Federal Public Defender,
District of Nevada